

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING, AND REGULATION  
BEFORE THE SOUTH CAROLINA BOARD OF REGISTRATION FOR  
PROFESSIONAL ENGINEERS AND SURVEYORS**

In the Matter of:

**TERRY D. STOGNER,**

License No. ELS.17377

OIE Case # 2013-2

Respondent.

**FINAL ORDER**

This matter came before the South Carolina Board of Registration for Professional Engineers and Surveyors ("Board") for hearing on November 10, 2014, to consider the Memorandum of Agreement and Stipulations ("MOA") signed by the above named respondent ("Respondent") and his below named attorney on November 10, 2014. In the MOA, Respondent waived the authorization and filing of a Formal Complaint as well as formal hearing procedures and elected to dispose of the matter pursuant to S.C. Code Ann. § 1-23-320(f)(1976, as amended). In the MOA, Respondent admitted certain facts but specifically denied that these factual admissions constituted violations of the Practice Act.

A quorum of the Board was present. The hearing was held pursuant to S.C. Code Ann. §§40-1-90, 40-22-110 and the provisions of the Administrative Procedures Act, S.C. Code Ann. §1-23-10, *et seq.* (1976 as amended) to determine what sanctions, if any, were appropriate.

Erin Baldwin, Esquire, Assistant Disciplinary Counsel, represented the State. Respondent was present and represented by Richard H. Warder, Esquire. Evidence entered into the record on behalf of the State included a copy of Respondent's renewal application and Respondent's handwritten statement. Respondent presented mitigating evidence into the record in the form of the testimony of four (4) character witnesses. Respondent also testified regarding mitigating circumstances. Prior to the Board's deliberation and after the Respondent rested his case, the State withdrew its allegation as contained in the MOA that Respondent violated S.C. Code Section 40-1-110 (1) (i) (1976, as amended).

After consideration, the Board voted to accept the facts admitted in the MOA and to impose the sanctions specified in this Order.

## FINDINGS OF FACT

Based upon the preponderance of the evidence in the record before the Board, including admissions in the MOA, the Board finds the facts of the case as follows:

1. Respondent was first individually registered as a Tier A Land Surveyor in this State on or about February 22, 1996.
2. On or about November 23, 2011, Respondent was convicted of a probation violation for a prior sentence of "DRIVING UNDER THE INFLUENCE—4<sup>TH</sup> OR MORE." He received a sentence of two hundred eighty-eight (288) days.
3. On or about August 13, 2012, Respondent was convicted of the felony of "DUI/LESS THAN 10, 4<sup>th</sup> or SUB OFFENSE." He received a five (5) year sentence, suspended upon service of three (3) years.
4. On or about June 30, 2012, Respondent applied for renewal of his license and answered "NO" to the application question "Since July 1, 2010, have you been convicted of a crime (other than a traffic violation)?"
5. On or about May 3, 2013, Respondent sent a letter to Investigator Stella Hammond of the South Carolina Department of Labor, Licensing and Regulation admitting to his convictions but describing them as traffic offenses and asking to maintain his license.
6. Respondent testified that: (a) he did not intend to deceive by answering "NO" to the application question; (b) he believed, in good faith, that because he had only received a blue ticket as a result of the above-listed DUI charges, that he had only committed traffic violations that did not arise to criminal convictions; (c) that he is currently in Alcoholics Anonymous and no longer drives; and, (d) that his alcoholism did not interfere with his work as a Tier A Land Surveyor and did not pose a danger to the public.
7. Respondent's mitigation witnesses testified that: (a) they had no personal knowledge that Respondent consumed alcohol while rendering professional services as a Tier A Land Surveyor; and (b) never saw Respondent impaired while rendering professional services as a Tier A Land Surveyor.
8. This is the first disciplinary matter concerning Respondent.
9. Prior to the Board making its decision, the State withdrew its allegation contained in the MOA that Respondent violated S.C. Code Section 40-1-110 (1) (i).

### CONCLUSIONS OF LAW

Based upon careful consideration of the facts of this case, the Board unanimously finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, upon finding that a licensee has violated the provisions of S.C. Code Ann. §§ 40-1-110 or 40-22-110 (1976, as amended), has the authority, pursuant to S.C. Code Ann. §§ 40-22-110 and 120 (1976, as amended), to order the revocation, suspension, or refusal of a certificate of registration, publicly reprimand the holder of a certificate of registration, or take other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the Board or imposing restraint upon the practice of a registrant. Additionally, the Board may require the holder of a certificate of registration to pay a civil penalty of not more than One Thousand Dollars (\$1,000.00) to the Board for each violation of S.C. Code Ann. § 40-22-120, *et seq.*, or the Rules and Regulations of the Board, with the total of these civil penalties not to exceed a total of Twenty Thousand Dollars (\$20,000.00). Further, pursuant to S.C. Code Ann. § 40-1-170, should the holder of a certificate of registration be found in violation of the offenses charged, said registrant may be directed to pay a sum not to exceed the reasonable costs of the investigation and prosecution of the case. These costs are to be assessed in addition to any sanction that may be imposed.

2. Respondent violated S.C. Code Section 40-1-110 (1) (a) in that he used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure.

3. Respondent violated S.C. Code Section 40-1-110 (1) (h) in that he has been convicted of or has pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude.

4. Respondent did not violate S.C. Section 40-22-110 (A) (3) in that there was not sufficient evidence supporting the State's allegation that Respondent had been guilty of a felony or misdemeanor which, in the judgment of the Board, adversely affected Respondent's ability to perform satisfactorily as a Tier A Land Surveyor.

5. The decision imposed by the Board is designed not to punish Respondent but to protect the interests of the public.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

1. Respondent is hereby publicly reprimanded.
2. Respondent is assessed a civil penalty of One Thousand Dollars (\$1,000.00), which shall be paid within thirty (30) days from the effective date of this Order.
3. Respondent shall immediately report to the Board any instance in which he is found guilty or pleads guilty or nolo contendere to Driving Under the Influence or DUI.
4. The effective date of this Order is the date of delivery to Respondent.

**AND IT IS SO ORDERED.**

**SOUTH CAROLINA BOARD OF REGISTRATION  
FOR PROFESSIONAL ENGINEERS AND  
SURVEYORS**

BY:

  
**TIMOTHY W. RICKBORN, MS, PE**  
Chairman of the Board

January 21, 2015.

**South Carolina Department of Labor, Licensing & Regulation**

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

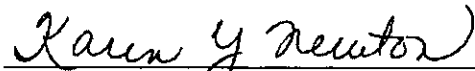
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**CERTIFICATE OF SERVICE BY MAIL**

This is to certify that the undersigned has this date, January 22, 2015, served the Final Order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s) to the following address:



Karen Y. Newton  
Administrative Coordinator  
SC Department of Labor, Licensing  
and Regulation